



Alan C. Lloyd, Ph.D.
Agency Secretary

State Water Resources Control Board

Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
Mailing Address: P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov



Arnold Schwarzenegger
Governor

NOTICE OF APPLICATION TO APPROPRIATE WATER BY PERMIT

APPLICATION: 30539

DATE FILED: May 15, 1996

STREAM SYSTEM: Capell Creek

COUNTY: Napa

Notice is hereby given that Thomas W. Gomez has filed an application for a water right permit. The State Water Resources Control Board (SWRCB) will determine whether a water right permit should be issued for the application and, if so, whether conditions are needed in the permit to protect the environment, the public interest, and downstream water users. This notice provides a description of the proposed project and also describes the procedure and time frame for submittal of protests against the application. This notice may be viewed at the Division of Water Rights' (Division) website at www.waterrights.ca.gov. Any correspondence directed to the applicant should be mailed to:

Thomas W. Gomez
c/o Nicholas Bonsignore
Wagner & Bonsignore
444 North Third Street, Suite 325
Sacramento, CA 95814

Description of Project

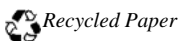
Applicant proposes to divert to storage of up to 100 acre-feet annually (afa) from Oak Moss Creek and three unnamed tributaries thereto. Point of Diversion 1 (POD 1) is an existing on-stream reservoir permitted for 13 afa under Permit 20701 (Application 29542). Application 30539 proposes to increase the capacity of this reservoir to 15 acre-feet (af) with a 24.9 foot high and a surface area of 2 acres. POD 2 is located downstream of POD 1. Reservoir No. 2 is a proposed 49 af on-stream reservoir with a 24.9 foot high dam and 5 af surface area. POD 3 is an existing 4 af stockpond covered by Stockpond Claim No. 4060. Application 30539 proposes to enlarge this stockpond to a 49 af reservoir with a 24.9 foot high dam and 6 af surface area. POD 4 is a point of diversion to off-stream storage located on Oak Moss Creek that would divert water at a rate of 2.99 cubic feet per second (cfs) to storage at POD 3. The total amount of water sought by Application 30539 is 100 afa.

The proposed use for the water is domestic use at two residences, irrigation and frost protection of 101 acres of vineyard, stockwatering, recreation and fire protection. The project is located in the southern end of Capell Valley, approximately 9 miles northeast of Yountville, California.

Summary of Application

County: Napa.
Source: (1), (2), (3) Unnamed Streams tributary to Oak Moss Creek, and (4) Oak Moss Creek tributary to Capell Creek thence Putah Creek thence Yolo Bypass.

California Environmental Protection Agency



Points of

Diversion: (1) Diversion to Storage. NW¼ of NE¼ of section 22, T7N, R3W, MDB&M;
 (2) Diversion to Storage. NE¼ of NW¼ of section 22, T7N, R3W, MDB&M;
 (3) Diversion to Storage. SW¼ of NW¼ of section 22, T7N, R3W, MDB&M;
 (4) Diversion to Off-Stream Storage at Point #3. SW¼ of the NW¼ of section 22, T7N, R3W, MDB&M.

Amount: 100 af collected to storage, not to exceed a total of 113 af per year in combination with that taken under Permit 20701 (Application 29542).

Diversion

Season: October 1 to May 31

Purpose: Irrigation, frost protection, domestic, stockwatering, recreation and fire protection.

Place of Use:

Use is Within	Section	Township	Range	B & M	Acres
NW¼ of SE¼	15	7N	3W	MD	1
SW¼ of SE¼	15	7N	3W	MD	6
SE¼ of SW¼	15	7N	3W	MD	4
SW¼ of SW¼	15	7N	3W	MD	10
NE¼ of NE¼	21	7N	3W	MD	20
SE¼ of NE¼	21	7N	3W	MD	2
NW¼ of NW¼	22	7N	3W	MD	39
SW¼ of NW¼	22	7N	3W	MD	19
Total Acres:					101

Environmental Information

The lead agency will prepare the appropriate environmental documents for the project according to the California Environmental Quality Act (CEQA) and its guidelines, and will determine whether or not the project will cause a significant effect on the environment. If you are not filing a protest, but wish to submit information that indicates the project may cause a significant effect on the environment, please send this information to Steven Herrera; SWRCB, Division of Water Rights; P.O. Box 2000; Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

PROTEST SUBMITTAL INFORMATION**Protest Requirements**

A person may file a protest based on any of the following factors:

- Interference with prior water rights.
- Adverse environmental impact.

- Not in the public interest.
- Contrary to law.
- Not within the jurisdiction of the SWRCB.

All protests must clearly describe the objections to approval of the application and the factual basis for those objections. There must be a clear link between the proposed project and the objection to its approval. If the objection is based on interference with prior water rights, the protest must describe specifically what injury would result if the application is approved. In addition, the party claiming interference with prior rights must provide specific information describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use and the place of use. Please note that any water right permit issued by the SWRCB is subject to vested water rights and will include conditions to protect such rights.

If the protest is based on an allegation that the proposed appropriation would not be within the SWRCB's jurisdiction, would not best conserve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law, the protest must be accompanied by a statement of facts supporting the allegation.

For example, public interest protests should clearly indicate how the appropriation will affect the public; environmental protests should identify specific impacts and provide supporting recitals on the effect of the proposed project on plants, animals, fish, erosion, pollution, aesthetics, etc.; public trust protests must identify the navigable waters and public trust values that would be affected by the proposed project and how the project will impact public trust values.

All protests should include a description of any measures that could be taken to resolve the protest. The protest also must indicate the manner in which the protestant served upon the applicant a duplicate copy of the protest.

If sufficient information is not submitted, the SWRCB may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest.

Procedure for Submitting Protests

Protests should be submitted on standard protest forms available from the Division's website at www.waterrights.ca.gov/forms/ or upon request, in writing or by telephone, from the Division. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the individual listed as the contact person at the end of this notice. **A copy of the completed protest form must also be mailed to the applicant.**

Protest Submittal Deadline

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the **40th** day after the date of this notice (the close of the protest period). Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P. O. Box 2000; Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400
3. E-mailed to the engineer listed below under the heading "Contact Person"
4. Hand-delivered to the Division office located at 1001 "I" Street, 14th Floor, Sacramento, CA

If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or e-mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division in order for the protest to be accepted. The SWRCB will respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the SWRCB may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below as "Contact Person" to request the extension prior to the end of the protest period.

Resolution of Protests

The applicant will have 30 days to respond to a protest once it is accepted by the Division. The protestant and the applicant are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

This is a "minor" project (the proposed diversion is 3 cubic feet per second or less by direct diversion or 200 acre-feet or less per year by storage) as defined by section 1348 of the Water Code.

Therefore, any protest issues not resolved by the applicant or by provisions of section 1335 of the Water Code will be decided by the Chief, Division of Water Rights, following a field investigation.

CONTACT PERSON

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Karol Enferadi by phone at (916) 341-5361 or by electronic mail at kenferadi@waterboards.ca.gov. Information and protest forms are also available at the Division's website: www.waterrights.ca.gov/forms/.

Date of Notice: **MARCH 25, 2005**